

(The nominations received today are printed at the end of the Senate proceedings.)

**REPORT OF DRAFT LEGISLATION
ENTITLED: "CYBERSPACE ELECTRONIC SECURITY ACT OF 1999"
(CESA)—MESSAGE FROM THE
PRESIDENT—PM #57**

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States which was referred to the Committee on the Judiciary.

To the Congress of the United States:

I am pleased to transmit for your early consideration and speedy enactment a legislative proposal entitled the "Cyberspace Electronic Security Act of 1999" (CESA). Also transmitted herewith is a section-by-section analysis.

There is little question that continuing advances in technology are changing forever the way in which people live, the way they communicate with each other, and the manner in which they work and conduct commerce. In just a few years, the Internet has shown the world a glimpse of what is attainable in the information age. As a result, the demand for more and better access to information and electronic commerce continues to grow—among not just individuals and consumers, but also among financial, medical, and educational institutions, manufacturers and merchants, and State and local governments. This increased reliance on information and communications raises important privacy issues because Americans want assurance that their sensitive personal and business information is protected from unauthorized access as it resides on and traverses national and international communications networks. For Americans to trust this new electronic environment, and for the promise of electronic commerce and the global information infrastructure to be fully realized, information systems must provide methods to protect the data and communications of legitimate users. Encryption can address this need because encryption can be used to protect the confidentiality of both stored data and communications. Therefore, my Administration continues to support the development, adoption, and use of robust encryption by legitimate users.

At the same time, however, the same encryption products that help facilitate confidential communications between law-abiding citizens also pose a significant and undeniable public safety risk when used to facilitate and mask illegal and criminal activity. Although cryptography has many legitimate and important uses, it is also increasingly used as a means to promote criminal activity, such as drug trafficking, terrorism, white collar crime, and the distribution of child pornography.

The advent and eventual widespread use of encryption poses significant and

heretofore unseen challenges to law enforcement and public safety. Under existing statutory and constitutional law, law enforcement is provided with different means to collect evidence of illegal activity in such forms as communications or stored data on computers. These means are rendered wholly insufficient when encryption is utilized to scramble the information in such a manner that law enforcement, acting pursuant to lawful authority, cannot decipher the evidence in a timely manner, if at all. In the context of law enforcement operations, time is of the essence and may mean the difference between success and catastrophic failure.

A sound and effective public policy must support the development and use of encryption for legitimate purposes but allow access to plaintext by law enforcement when encryption is utilized by criminals. This requires an approach that properly balances critical privacy interests with the need to preserve public safety. As is explained more fully in the sectional analysis that accompanies this proposed legislation, the CESA provides such a balance by simultaneously creating significant new privacy protections for lawful users of encryption, while assisting law enforcement's efforts to preserve existing and constitutionally supported means of responding to criminal activity.

The CESA establishes limitations on government use and disclosure of decryption keys obtained by court process and provides special protections for decryption keys stored with third party "recovery agents." CESA authorizes a recovery agent to disclose stored recovery information to the government, or to use stored recovery information on behalf of the government, in a narrow range of circumstances (e.g., pursuant to a search warrant or in accordance with a court order under the Act). In addition, CESA would authorize appropriations for the Technical Support Center in the Federal Bureau of Investigation, which will serve as a centralized technical resource for Federal, State, and local law enforcement in responding to the increasing use of encryption by criminals.

I look forward to working with the Congress on this important national issue.

WILLIAM J. CLINTON.

THE WHITE HOUSE, September 16, 1999.

MESSAGE FROM THE HOUSE

At 11:42 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 417. An act to amend the Federal Election Campaign Act of 1971 to reform the financing of campaigns for elections for Federal office, and for other purposes.

H.R. 1551. An act to authorize the Federal Aviation Administration's civil aviation re-

search and development programs for fiscal years 2000 and 2001, and for other purposes.

H.R. 1665. An act to authorize appropriations for fiscal years 2000 and 2001 for the civilian energy and scientific research, development, and demonstration and related commercial application of energy technology programs, projects, and activities of the Department of Energy, and for other purposes.

MEASURES REFEREED

The following bills were reach and the first and second times by unanimous consent and referred as indicated:

H.R. 1551. An act to authorize the Federal Aviation Administration's civil aviation research and development programs for fiscal years 2000 and 2001, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 1665. An act to authorize appropriations for fiscal years 2000 and 2001 for the civilian energy and scientific research, development, and demonstration and related commercial application of energy technology programs, projects, and activities of the Department of Energy, and for other purposes; to the Committee on Energy and Natural Resources.

MEASURE READ THE FIRST TIME

The following bill was read the first time:

H.R. 17. An act to amend the Agricultural Trade Act of 1978 to require the President to report to Congress on any selective embargo on agricultural commodities, to provide a termination date for the embargo, to provide greater assurances for contract sanctity, and for other purposes.

**EXECUTIVE AND OTHER
COMMUNICATIONS**

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-5184. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a cumulative report on rescissions and deferrals dated August 25, 1999; transmitted jointly, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, to the Committee on Appropriations, to the Committee on the Budget, to the Committee on Energy and Natural Resources; to the Committee on Environment and Public Works and to the Committee on Foreign Relations.

EC-5185. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report entitled "OMB Sequestration Update Report to the President and Congress for Fiscal Year 2000" transmitted jointly, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, to the Committee on Appropriations, and to the Committee on the Budget.

EC-5186. A communication from the Director, Congressional Budget Office, transmitting, pursuant to law, a report entitled "Sequestration Update Report for Fiscal Year 2000" transmitted jointly, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, to the Committee on Appropriations, and to the Committee on the Budget.

EC-5187. A communication from the Director, Office of Regulatory Management and